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## **REMARKS**

Reconsideration and withdrawal of the rejections of the application respectfully requested in view of the amendments, remarks and enclosures herewith, which place the application in condition for allowance.

### **I. STATUS OF CLAIMS AND FORMAL MATTERS**

At the outset, the applicants would like to extend their appreciation for the acknowledgement of allowable subject matter which was made by the Examiner with regard to claims 4-7 and 14-17.

Claims 1, 16 and 17 have been amended to correct various typographical errors recited by the Examiner as well as those discovered by the applicants. Claims 1, 16 and 17 also have been amended by deleting reference to "thiazole-2,5-diyl" in definition (iv) for the variable T (The applicants reserve the right to pursue this subject matter in a continuation application). Claims 1-7 and 13-17 are still pending. It is believed that no new matter has been added.

It is submitted that the claims, herewith and as originally presented, are patentably distinct over the prior art cited in the Office Action, and that these claims were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as presented herein, are not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101 or 112.

### **II. THE OBJECTIONS TO THE CLAIMS HAVE BEEN OVERCOME**

Claim 1 has been amended to delete the phrase "Y cannot be -CH<sub>2</sub>CH<sub>2</sub>-" and the claims now ends with a period. Claims 1, 16 and 17 have been amended to add semicolons after the end of the definition of the variable X.

### **III. THE 35 U.S.C. §102(a)/103 REJECTION HAS BEEN OVERCOME**

Claims 1-3 and 13 were rejected as allegedly being anticipated or in the alternative as being obvious over JP 2000-17264 ("the '264 reference").

With the deletion of the reference to thiazole-2,5-diyl in the definition of variable T, there is no longer any overlap between the scope of the applicants' claimed invention and the '264 reference. Since a claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference (see MPEP 2131 and *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Therefore, the claims are no longer anticipated.

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In addition, obviousness can only be established if all claim limitations must be taught or suggested by the prior art (see MPEP 2143.03 and *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). As stated in MPEP 2141.02 "A prior art reference must be considered in its entirety, i.e. as a whole, including portions that would lead away from the claimed invention." (see MPEP 2141.02 and *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)) and it has long been held that "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." (see *In re Wesslau*, 353 F.2d 238, 241, 147 USPQ 391, 393 (CCPA 1965)).

With the deletion of thiazole-2,5-diyl, all limitations have not been taught and the '264 reference does not provide any guidance or direction not only to substitute for a moiety not specifically described but also does not provide guidance or direction to substitute solely for the thiazole-2,5-diyl moiety. While the Examiner has the "answer key" (i.e. the applicants' claims) before him, the hypothetical one of ordinary skill in the art presented with the '264 reference does not have the claims before them. As there is no direction or guidance to pinpoint this specific moiety for modification based on the teachings of the numerous compounds contemplated within the '264 reference, i.e. the skilled artisan would be looking for a needle in a haystack without knowing what the needle looks like. In describing the predicament of the skilled artisan, "...the board said, referring to the appellant's ingredients, 'It should be noted that an infinite number of combinations is possible.' Accepting that as an approximation to the truth, we fail to see the obviousness in devising appellant's.....[invention] as claimed.'" *In re Rice*, 481 F.2d 1316, 1319, 178 USPQ 478, 480 (CCPA 1973). Because the '264 reference does not teach or suggest modification of their invention in the manner suggested by the Examiner, all limitations of the applicants' claimed invention are not taught by the '264 reference and therefore, the claims are not obvious over the '264 reference.

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**CONCLUSION**

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

**REQUEST FOR INTERVIEW**

In the interest of adhering to the tenets of compact prosecution and obtaining good customer service (see page 7 of the FY-2004 Performance and Accountability Report), the applicants request that the teachings of MPEP 707.07(j), sections II and III be applied, especially with regard to the offer of suggestion for correction by the Examiner if the rejections are upheld. In accordance with MPEP 713.01, section III, should any issue remain as an impediment to allowance, an interview with the Examiner and SPE are respectfully requested; and, the Examiner is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview ("An interview should normally be arranged for in advance, as by letter, facsimile, electronic mail, telegram or telephone call, in order to insure that the primary examiner and/or the examiner in charge of the application will be present in the office." *Id.*).

**AUTHORIZATION FOR PAYMENT OF FEES**

The Commissioner is hereby authorized to charge any extension of time requirement or any additional fee which may be required, or credit any overpayment to Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: Howard C. Lee  
Marilyn M. Brogan      Howard C. Lee  
Reg. No. 31,233      Reg. No. 48,104  
(212) 588-0800